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IN THE CIRCUIT COURT OF KANAWHA COUNTY
AT CHARLESTON
CIVIL ACTION NO. 84-C-2072

ROSALIE HAIGHT, JOHN HAIGHT; ANDREW J. GOODWIN; CHARLES FORBES and JUNE FORBES,

Plaintiffs,

vs.

THE AMERICAN TOBACCO CO., a division of American Brands, Inc.; BROWN & WILLIAMSON TOBACCO CORPORATION, LORILLARD DIVISION OF LOEWS THEATRES, INC.; PHILIP MORRIS, INCORPORATED; R. J. REYNOLDS INDUSTRIES, INC.; LIGGETT GROUP INC.; S.C.C. & B., INC., McCANN-ERICKSON, INC.; FOOTE, CONE & BELDING, INC.; LEO BURNETT U.S.A.; WELLS, RICH, GREENE, INC.; WILLIAM ESTY COMPANY, INC.; BATTEN, BARTON, DURSTINE & OSBORNE, INC.; THE BLOOM AGENCY; ANCHOR TOBACCO CO.; and HECK'S INC.,

Defendants.

Deposition of:
MARGUERITE M. PHILLIPS

TRANSCRIPT of testimony as taken by and before ROSEMARY MARINO, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, at the K B & T Building, Virginia Street, Charleston, West Virginia, on Tuesday, August 26, 1986, commencing at 10:15 in the forenoon.

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I N D E X

WITNESS	DIRECT
MARGUERITE M. PHILLIPS	
Mr. Tinney	8

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MARGUERITE M. PHILLIPS,

[DELETED]

DIRECT EXAMINATION BY MR. TINNEY:

Q. Mrs. Phillips, as you know my name is John Tinney and I am with the firm of Spilman Thomas, Battle & Klostermeyer in Charleston and you and I have had occasion to meet before today, haven't we?

A. True.

Q. And to my immediate right is my partner Mr. Carl Fletcher who is also with my firm, Spilman Thomas and you've also met Mr. Fletcher before today?

A. Right.

Q. And to his immediate right my colleague Mr. Robert Cohen of the New York City law firm of Webster & Sheffield, and to his immediate right is Mr. F. Richard Hall of the firm of Davis, Bailey in Parkersburg, West Virginia and we collectively represent the defendant Liggett Group, Inc. and its advertising agency the Bloom Agency who are amongst the party defendants in this case.

I believe the record should also

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reflect that seated to your immediate left is Mr. Joseph M. Farrell of the law firm of Preiser & Wilson here in Charleston and Mr. Farrell as he told you prior to the beginning of your deposition here today represents Mr. Haight and the estate of Rosalie Haight who are the party plaintiffs in this case.

The purpose of our convening here today is to take your deposition which is a way of recording your testimony regarding your knowledge and recollection of matters that may be important to this lawsuit.

I am going to be asking you a series of questions today and in the course of my inquiry of you if at any time you don't understand a question I want you to tell me that so that the record is clear and I don't want you to be embarrassed or hesitant at all saying that you didn't understand my question, I will try to rephrase it so that you and I are communicating, and I want you to know that if you respond to my question I am going to assume that you have understood it and the record will reflect your answer to the best of your knowledge and recollection.

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Also at any time this morning you feel that you need to take a short recess or a break, this is not that formal of a proceeding, just please indicate that to me and we will take a recess and reconvene at a mutually convenient time.

Mrs. Phillips, you've told the reporter your full name and your present address. I'd like for you if you would, you know, tell us where and when you were born.

A. I was born in Charleston, West Virginia, November 12, 1917.

MR. FARRELL: Let me interrupt. We reserve on all objections except to form of the question.

MR TINNEY: Yes.

Q. Were you educated here in Charleston?

A. No, for the most part I was educated in Point Pleasant.

Q. You moved with your family at an early age to the community of Point Pleasant, West Virginia?

A. Yes.

Q. Do you recall when you moved?

A. No.

Q. Did you go to elementary school in

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Point Pleasant?
A. Yes.
Q. And you went to high school there?
A. Went to high school there.
Q. Did you graduate from Point Pleasant High School?
A. I did.
Q. And in what year?
A. 1935. Actually it wasn't my family, had a farm just outside of Point Pleasant that hadn't been occupied, the house was built in 1832 and we moved there and that's where we grew up which is about four miles out of Point Pleasant.
Q. But you were in the neighorhood as such that you did go to Point Pleasant High School which was probably the high school in Mason County at that time?
A. Right.
Q. Following your graduation from high school, what did you do next?
A. I was out for a couple of years, I worked in the -- I think it was called Citizens National Bank in Point Pleasant and then went to the university.
Q. What did you do in this interim

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period of employment from the time you graduated from high school and when you went away to college, what did you do for the bank?

A. It was a small bank and I was secretary to C.C. Lewis who is the president of the bank.

Q. Other than being Mr. Lewis' secretary, did you have any other duties and responsibilities?

A. Not really. I listed checks that were to be sent to the -- to be cleared. I really can't recall the specifics of what I did.

Q. I understand. Following your employment there at the bank you told me you went to the university and by the university you mean West Virginia?

A. West Virginia.

Q. At Morgantown, West Virginia?

A. Right.

Q. And was a part or perhaps all of the reason for your interim employment to secure funds to go to college?

A. Right, that was -- at the time we were all securing funds, right after the depression or during the depression. I had six sisters and a brother all of whom had to go to college too, eventually.

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Q. Where do you fit in with your other brothers and sisters?
A. I'm third from the oldest.
Q. And so you went to Morgantown in the fall of 1937?
A. Yes.
Q. Did you find a place to live in Morgantown?
A. Sure, I stayed in Women's Hall.
Q. Women's Hall was the ladies dormitory at the university?
A. Right.
Q. And at that time were all enrolling freshmen required to live in Women's Hall?
A. I believe so.
Q. Did you live there the entire year?
A. Yes.
Q. Did you have a roommate?
A. Yes.
Q. Do you remember her name?
A. Yes. Cordelia McCulloch, my cousin.
Q. Was she from the Point Pleasant area also?
A. Right.
Q. So you young lady cousins went off to

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school together that fall of 1937?
A. Yes.
Q. During that first year did you make any friends and acquaintances that developed into a long-standing relationship?
A. Yes, I did.
Q. And was one of those an acquaintanceship with a lady named Rosalie O'Neale?
A. Right.
Q. And you met her that first year?
A. Yes.
Q. Was she too living in Women's Hall?
A. Right.
Q. On your floor?
A. I think so. We were in south wing and I believe she was on the same floor.
Q. Do you recall the circumstances of first becoming acquainted with Rosalie O'Neale?
A. We were both pledges in Pi Beta Phi sorority.
Q. As best you recollect was that the first time you met?
A. Uh-hum.
Q. And that would have been in the fall of 1937?
A. Right, she and her sister.

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Q. Rosalie's sister?
A. Uh-hum. Her sister was an active in Pi Beta Phi, Caroline Chaney Haight -- Caroline O'Neale then.
Q. Is it fair, Mrs. Phillips, for this record to reflect that you maintained a relationship with Rosalie O'Neale later Haight from your becoming acquainted in the fall of 1937 until her death September of 1985?
A. Yes.
Q. Now, that first year at the university in the fall of 1937 when you and Rosalie became pledges at the Pi Beta Phi house, did you meet John Haight that year?
A. Yes.
Q. Do you remember the circumstances of your first meeting of John?
A. No, I really don't.
Q. Was he dating Rosalie at the time you met him?
A. Yes.
Q. Was he an older student at that time?
A. I don't remember. I think he may have been a year or two older but I am not sure.
Q. Do you recall Caroline O'Neale, in

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what year of college was she when you first met her?

A. I think she was a senior. I know she was an active when I was a pledge.

Q. Do you remember any other members of your pledge class?

A. Oh, yes. Gee, I haven't thought of them in a long time. Bettie Stallings was one, she was from McKeesport, Virginia Weaver from Parkersburg. You know, this has been about 50 years ago.

Q. Just like yesterday, just like yesterday.

A. I haven't thought of this for a while.

Q. Do you happen to remember or know these ladies' married names?

A. Wheeler, Bettie Stallings married John Wheeler. I want you to understand that Rosalie Haight was a very good friend and I don't want to give you information that would be -- that would be harmful to her in any way. Should I give you these names or should I not?

Q. Yes, Ma'am, best you recollect the names and if you don't recollect you don't recollect. Nothing sinister about trying to find out --

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A. I can't see how it could be but I don't know these things.

MR. FARRELL: If you remember tell him. If you don't remember tell him you don't remember.

THE WITNESS: I am trying.

A. I can't remember. Virginia Weaver married somebody but I can't remember his last name and I went to the wedding.

Q. Some time ago?

A. A few years ago. Elizabeth Bailey from Bloomfield who married Baynes I believe was his last name. There are only about 3,000 people total enrollment at the university when I was there. I should be able to remember them all.

Q. Was Bettie Stallings later to be a roommate with you and Rosalie in the sorority house?

A. You already knew that, didn't you. Yes, she was. When we moved into Pi Beta Phi house she was.

Q. You all moved in the sorority house your second year at Morgantown?

A. Correct.

Q. And did the three of you, yourself, Rosalie and Bettie Stallings live together in the

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same -- as roommates in the sorority house for the remaining two years?

A. Yes.

Q. And that configuration, that trio never changed over those second, third and fourth years?

A. Not until the fourth year and I graduated at midyear the fourth year.

Q. But up until when you graduated in December of 1940, 1941?

A. I guess it would be more like January of 1941.

Q. January of 1941?

A. Yes, the end of the semester.

Q. The roommates were still Peg, Bettie and Rosalie?

A. Right. B-e-t-t-e I think -- B-e-t-t-i-e she spelled it.

Q. Do you know if someone replaced you as the third roommate after your graduation?

A. I don't know.

Q. Were you ever acquainted with then a young man at the university by the name of Charles or Charlie Kent? Do you remember him?

A. No.

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Q. Mrs. Phillips, back some time ago I asked Mrs. Haight to give me the name of the person that she considered her best friend in the sorority and Mrs. Haight responded to my question by telling me that she considered you her best friend. Does that go back the other way? Did you consider her your best friend?

A. Well, certainly when we were in school and certainly she was a very good friend from then on. I don't know how to classify best friend but I suppose that would be true. I've lots of best friends.

Q. I understand. Certainly you and Mrs. Haight over your college years and throughout the years had what could be characterized as a close and enduring friendship?

A. Right.

Q. During your years of college, I know from other sources that you were once married to a lawyer by the name of Jim Wolverton or James Wolverton; correct?

A. Correct.

Q. Did you meet Mr. Wolverton in college?

A. Right.

Q. Now, is Mr. Wolverton still living?

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A. Yes.

Q. As being Rosalie's friend and the fact that it's been previously established that John Haight was on the scene in those years were there occasions when you and Mr. Wolverton, your former husband and John Rosalie would go out together, socialize together?

A. Occasionally. Not often.

Q. Were John and Mr. Wolverton in any same fraternity or friends of or acquaintances?

A. Jim was a Phi Sig. I don't know what John was. They weren't particularly good friends.

Q. After you graduated in January of 1941 from the university where did you go?

A. I came to Charleston.

Q. And what did you do when you came to Charleston?

A. I was secretary to N.E. Shupe of Virginian Gasoline and Oil.

Q. How long were you employed as Mr. Shupe -- S-h-u-p-e?

A. Right.

Q. How long were you employed as Mr. Shupe's secretary?

A. Until May of that year.

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Q. And in May of 1941 you changed positions?
A. I got married.
Q. And in May of 1941 you married Mr. James Wolverton?
A. Yes.
Q. Did you all relocate to some place other than Charleston?
A. Yes.
Q. Where did you go?
A. Richwood, West Virginia.
Q. I believe that's in Nicholas County?
A. Right. He joined his father's law firm there.
Q. And did you after moving to Richwood in -- did you move in May of 1941?
A. Right.
Q. After moving to Richwood that spring, did you take employment in that community?
A. Eventually. I taught school in Richwood but it wasn't -- I hadn't planned to teach so I had to go back to the university and get the hours necessary for a teacher's certificate, but --
Q. You graduated in January of 1941. What kind of degree did you get?

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A. In 1941 I got a BS in business education.

Q. And after you married and went back to Richwood and before you began to teach school you went back to the university to take some additional hours to get your teacher's certification?

A. Right.

Q. And do you remember when you got your teacher's certification?

A. Yes. It was that summer.

Q. The summer of 1941?

A. Yes.

Q. So then did you begin to teach school in Richwood in the fall of 1941?

A. No. I taught school when there was a vacancy because one of the young men was called to the service, it was after Pearl Harbor.

Q. So sometime in the spring of 1941 you began to teach?

A. I think it was in February of 1942 but I am not positive.

Q. Whenever that point began in 1942, did you teach continuously with some absences perhaps to have your children from 1942 until your retirement in 1975?

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A. Well, I taught 27 of those years. It was not exactly continuously because during the war we -- I lived in San Antonio and I taught in a little college there and then moved to Palm Beach where I did not teach.

Q. Was this movement to San Antonio and Palm Beach, Florida?

A. Right.

Q. Was this all during the war?

A. Right.

Q. Then after the war did you return to Richwood?

A. Yes.

Q. Now, after you relocated to Richwood in May of 1941 and until you returned after the war is it fair for me to understand that during those years you and Rosalie wouldn't have had an opportunity to see each other because of both of you, you know, being more or less distant located because of the war?

A. Right.

Q. And is that in fact true?

A. Yes.

Q. So from January 19 -- was Rosalie at your wedding?

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A. No.

Q. Do you have any recollection of getting together with Rosalie from the time you graduated from college January of 1941 until after the war?

A. No. Rosalie and John did not come to the wedding, they sent us a telegram in White Sulphur Springs, that's all I can remember, but I did not see Rosalie, I don't know when I saw her but it was not during the war years.

Q. So there was --

A. I saw her after John was in the service, Rosalie and John but they were not married then, I saw them here in Charleston.

Q. The war did to you and Rosalie's friendship like it did for a lot of folks, there was a hiatus, haven't been able to see each other because people were sent to different parts of the world?

A. Right.

Q. So there's a bit of a time gap in your relationship from your graduation in 1941 and until you see each other again after the war?

A. Uh-hum.

Q. Now, as I understand it after the war

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your friendship again comes full cycle, you see each other rather frequently?

A. Well, particularly after 1949.

Q. Now, and this is no way intended to embarrass you in any way, Mrs. Phillips, but somewhere around 1949 you and Mr. Wolverton were divorced and you returned from Richwood to Charleston?

A. Right.

Q. And is that what you had referenced to when you and Rosalie began to see more of each other?

A. Uh-hum.

Q. I need for you to describe for me how your friendship and your contacts with each other came about after you returned to Charleston in 1949.

A. Well, John was my attorney when I got the divorce and he and Rosalie were very kind to me. I bought a house at 3718 Noyes Avenue and lived there with my two children who were three and four and this was not too far from where John and Rosalie were living on Statton Avenue and we saw each other very frequently.

Q. After you returned to Charleston with

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your children, did you then become reemployed here in Charleston?

A. Yes.

Q. Do you remember when?

A. Well, I went back to the university and finished my master's degree first. I had already started it before I was married so I only had to go six weeks, and the house that I bought was leased so I had to -- I had to wait for it anyway so I went back to school, and I applied for a teaching position in Kanawha County but there were none available at that time, and Mr. Sam Flornoy had been a family friend and he needed a secretary and I had done some legal work in Jim's office so I worked at the firm of Flornoy & Porter until there was a vacancy in the schools.

Q. Do you remember when that was, early 1950s?

A. Yes.

Q. Was it before your marriage to Mr. Phillips?

A. Oh, yes.

Q. Now you were divorced in 1949 and you were remarried in 1953?

A. Correct.

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Q. And the -- do you remember which year you finished your masters, was that 1949?
A. Yes.
Q. Then you worked for a period of time with a law firm of Flornoy & Porter?
A. Right.
Q. And then after that you went directly to a teaching position?
A. Oh, not really.
Q. Okay.
A. I had two children who needed me at home and I brought the maid with me that I had in Richwood and she got married so the children needed me and I had to quit, so I worked at the first Presbyterian Church as secretary to George Vick because the kids could go to school -- to the kindergarten there while I was working. Do you really want all this?
Q. Yes, because I want to ask you some questions as to what --
A. Well, then I was asked to substitute in Kanawha County, I didn't particularly want to but I thought this must be the way one gets his foot in the door so I went up to War, West Virginia and taught in a junior high school there which was a

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miserable drive in the snow, I started in February, and I was to teach maybe two or three days as a substitute and I took the place of a man who had accepted other employment and I finished the school year. That summer they gave me a teaching position in, I can't remember, two or three places, one was up Elk River and before that materialized they asked me if I'd rather teach at Eskdale, I think E-s-k-d-a-l-e, and before that materialized somebody resigned from the Business Ed. Department at Charleston High School so I took that job.

Q. Then from Charleston High to George Washington to retirement you were employed continuously?

A. No.

Q. Okay.

A. I had children in Charleston High and my husband thought that I would inhibit them if I taught there and I should not be there while they were in school so I quit for two years and I've taught some at Morris Harvey which is now Charleston University and I substituted some at South Charleston and kind of skirted around Charleston High so the kids could feel free and then I went back to Charleston High.

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Q. In this period 1949 to 1953 when you were sort of putting your life back in order, finding employment and so forth, did you see Rosalie on a regular basis then?

A. Yes.

Q. And define for me what a regular basis is. Once a week?

A. Oh, at least.

Q. Sometimes more?

A. Oh, they had the first colored television set I'd ever seen and we would watch the current shows on that, and they had a pool which we enjoyed and John was very good at barbecuing which was sort of a new thing in those days and we would get together for barbecues and that's about it, in our homes.

Q. This was before Rosalie and John had any children?

A. Yes.

Q. After you and Mr. Phillips were married in 1953 did you continue to see Rosalie on a regular basis?

A. Oh, yes.

Q. Did you move to another address?

A. Yes. I can't -- '55 I think we moved to

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Fort Hill, 319 McKinley Avenue.

Q. Do you remember what year you moved up on Fort Hill?

A. 1955.

Q. And you moved to McKinley Avenue, that's the street address?

A. Yes, 319.

Q. After you moved up there did you continue to see John and Rosalie on a regular basis?

A. Yes.

Q. Entertain them in your home?

A. Uh-hum.

Q. Did they entertain you and Mr. Phillips?

A. Maybe not so often as we had previously.

Q. Sure.

From the time that you first met Rosalie in 1937 did you ever know of any time when she wasn't smoking?

A. No.

Q. Mrs. Phillips, did you smoke?

A. Yes.

Q. Did you smoke in college?

A. Yes.

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Q. And did all three of you ladies smoke at the sorority house?

A. I don't think Bettie smoked, and we didn't -- I don't know how much Rosalie smoked. I didn't smoke much because I couldn't afford it. I think they cost a dollar and ten cents a carton.

Q. After your marriage and your moving to Fort Hill, do you remember about what year you moved up Fort Hill, 1955 you told me. I can't seem to get that in my head.

A. I think it was April 1955.

Q. After that point in time, give me your best recollection of how often you'd see Rosalie.

A. I just don't know. You know, whenever one of us would get a new car or have something, or some news or some special reason like a birthday celebration or Christmas or parties.

Q. Could this friendship to continue to see each other, was it as frequent after Rosalie had children?

A. Oh, I think so.

Q. Did you help her with her children?

A. No.

Q. Did you see Rosalie when she was

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pregnant with Will or Patricia?
A. No.
Q. Don't remember her being pregnant?
A. I don't remember that I did. I remember when they got had and I remember how they wanted children so badly for a while, for a long time. Rosalie was the type person, the kind of friend you could see today and maybe have no correspondence with her for a long time and the next time you'd see her it was just as if you'd seen her the day before. It wasn't the type of friendship you have to check in every day, that kind of thing. That was -- it was a good long lasting relationship that I think we both appreciated.
Q. Smoking and Rosalie O'Neale Haight sort of went together, didn't it?
A. I guess you could say that.
Q. You never had a conversation with her or a meeting with her where you didn't notice that Rosalie was smoking?
A. I don't understand.
MR. FARRELL: Object to the form of the question.
Q. You don't ever recall having a

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conversation person-to-person with Rosalie or seeing her when she was not smoking? She was always smoking, wasn't she?

MR. FARRELL: Object to the form of the question. It's leading.

A. I don't know -- you are saying was she a chain smoker?

Q. Yes.

A. No, I don't think so.

Q. You didn't perceive she was a chain smoker?

A. No. I know she always had cigarettes but I don't know.

Q. Did you ever have any conversations with Rosalie about quitting smoking?

A. I don't think so. We didn't think about quitting smoking. It wasn't all that bad in those days.

Q. You quit?

A. Yes.

Q. Do you remember when you quit?

A. About ten years ago. I never did smoke very much. I taught school and school teachers didn't smoke. I didn't carry cigarettes with me, I didn't smoke in the drug store, in the little town

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where I taught, I didn't -- you know, when I smoked it was a matter of sitting down and relaxing and having a coke or drink when I got home and having a cigarette, and I never had a cigarette hanging out of my mouth when I was doing dishes or something else because to me cigarettes and relaxation went together, and I don't suppose I smoked more than two or three packs a week ever so quitting as my husband tells me wasn't that big a deal for me because I never really smoked, he says, when I tried to get him to quit, that's what he tells me. I am sorry.

Q. Let's take a ten-minute recess.

A. Yeah, I think we better. I am talking too much.

(Short recess.)

Q. Mrs. Phillips, I'd like to go back and just ask you a few questions more about those years that you and Rosalie were at the Pi Beta Phi house in Morgantown. As I understand it Rosalie was an officer of your sorority?

A. She was president.

Q. Did you hold an office in the sorority?

A. Treasurer.

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Q. Were there any rules about smoking in the sorority house?
A. No. Not that I recall.
Q. Do you recall if there were any rules that your National Sorority had about smoking?
A. I don't recall if there were.
Q. If I were to tell you that the National Charter Rules or Bylaws or whatever they were called of the Pi Beta Phi Sorority in the years that you were a member affirmatively said that the sisters were not to smoke it was clear that you violated them?
MR. FARRELL: Object. I am not sure that is a question.
A. I was not aware of such a rule and if there was such a rule yes, we violated them.
Q. Thank you.
A. You're welcome.
Q. Do you have any recollection if there were ever any visits by representatives of the National Sorority at --
A. Oh, yes, from time to time.
Q. Do you recall such visits when Rosalie was the president?
A. Not specifically but I am sure there

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probably was. She was not president all the time we were there.

Q. Sure.

Do you have any recollection of any incident or perhaps disagreement that arose between Rosalie and a national representative?

A. No. Rosalie was very outspoken and there could have been. I don't remember.

Q. Do you recollect whether or not John Haight was a smoker? Do you remember him smoking cigarettes?

MR. FARRELL: Applying that to the same time frame?

MR. TINNEY: Yes.

A. I don't know. I can't remember. I just don't know. I thought he did but I can't say.

Q. Were you ever present with John and Rosalie where he indicated to her that he wished she wouldn't smoke?

MR. FARRELL: Again applying it to the college years?

MR TINNEY: No, any time.

A. No. I don't remember that, that he ever asked her not to smoke you mean?

Q. Yes, Ma'am, that you recall.

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A. No.

Q. Did you become aware of a thing called the Surgeon's General Report about smoking and health?

A. Oh, sure.

Q. Do you remember about when you became aware of that?

A. Oh, no. I think it probably was about early 1970s maybe.

Q. Do you ever recall any conversation with Rosalie about the Surgeon General's Report?

A. No.

Q. Did you ever observe Rosalie smoking cigarettes with a watertip filter?

A. Not really. I can't recall.

Q. Do you ever recall any conversation with Rosalie where she indicated that she was using a product called Bantron?

A. No.

Q. Have you ever heard of Bantron?

A. Yes.

Q. Did you ever use it?

A. No. Rosalie and I saw each other only a few times after we moved to Florida and that's been eleven and a half years and they have been down

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maybe, oh, three or four times and we always came to see them when we were in Charleston for a short visit.

Q. On any occasion did Rosalie ever mention to you or indicate to you that she might be trying to quit smoking? That you recall.

A. I am sure she tried to quit. It was taken for granted she tried to quilt after she found out she had a problem but I don't remember a specific conversation.

Q. Let me break it out. Prior to Rosalie being diagnosed as having cancer I believe in May of 1983 do you recall any conversations with her where she indicated to you that she was trying to quit smoking?

A. No. I think Rosalie was the type person if she decided to quit she'd quit. It wouldn't be a matter of trying. I don't know.

Q. You base that opinion upon your years of knowledge and friendship with her based on her independent character, that's part of it; isn't it?

A. Uh-hum.

Q. And her ability to make her own decisions and do her own thing?

A. Right.

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MR. FARRELL: I am going to object. I don't believe it's a question.

Q. Well, do you believe that she had the strength and character to make independent decisions?

A. Yes.

Q. Did you ever have any conversation with Rosalie about her thoughts regarding any kind of advertisements?

A. No.

Q. Do you have any recollection of her mentioning the contents of any kind of advertisement, making any comment on any kind of advertisement?

A. No.

Q. In your opinion was she an individual who would be influenced one way or the other by the content of any kind of an ad?

A. I really can't say.

Q. Prior to you and Mr. Phillips moving to Florida in 1975 included amongst your circle of friends here in Charleston, did that group include Charles and Margie Mottesherd?

A. Yes, for a short time.

Q. Can you give me a little better

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definition of that period of time?
A. I can't recall the dates but we were in groups where they were there, where they were part of the group a few times.
Q. Did that group also include a couple known as Bill and Rita Jones?
A. Yes.
Q. And did it also include Bill and Carol Steed?
A. Yes.
Q. Did it also include Charles and Rebecca Holz?
A. Yes.
Q. Can you think of any other folks that you all saw on a social basis, more or less regularly?
A. Excuse me. Bill Steed was not married at the time. I don't know Carol. Your last question?
Q. Do you recall recall any other folks that would -- you would include in this circle of friends?
A. No, I think you've mentioned most of them.
Q. Now, after you moved to Florida in 1975 just by sheer distance you would have seen Rosalie on a more infrequent basis?

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A. Uh-hum.

Q. You mentioned to me you saw her a few times after you moved to Florida. Would John and Rosalie be on vacation or something?

A. Yes.

Q. Do you have any idea about how many times in that ten-year period from 1975 until Rosalie's death in 1985 that you saw each other?

A. Oh, I'd say not more than half a dozen if that many.

Q. Would that have always been in Florida?

A. No, we saw them here when we came. I am speaking of that half a dozen times may have been in Florida. They came to Gainesville once, they had a daughter in school at the University of Florida and when Rosalie was not well we met them in Gainesville when she wasn't -- didn't feel like driving on down.

Q. The time you met in Gainesville was after the diagnosis?

A. Yes.

Q. After your friend was diagnosed did you have any conversation with her about her smoking practices?

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A. Oh, yes, to the degree that it wasn't about her smoking practices but she was very much concerned over the fact that my husband smoked and she and John both every time we saw them would ask him not to smoke. As a matter of fact, they asked him not to smoke period and definitely not to smoke in a room where Rosalie was because of her condition.

Q. Is it fair for me to understand and for this record to reflect that the first conversation that you recollect with Rosalie about not smoking occurred after she had been diagnosed as having cancer?

A. I think so.

Q. Mrs. Phillips, from the time that you made Rosalie's acquaintance and friendship in your college years up until the time you saw her after the cancer diagnosis did you ever observe any changes in her smoking practices?

A. From the time we -- will you repeat that?

Q. Maybe I should back up. When you first met Rosalie O'Neale she was smoking cigarettes?

A. Uh-hum.

Q. And then over the years that you all

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were friends and then you saw her in 1983 after she was diagnosed as having cancer. Now from the time that you first met her when she was smoking up until you saw her again in 1983 when she had the diagnosis and she had stopped smoking, during all of those years that you saw her do you have any mental impression of any change that you observed in her smoking practices?

A. The only thing I can recall is that she, I am not even sure about this, but it seems to me that she changed to filter cigarettes and then to cigarettes that were supposed to be -- to have less what, nicotine or something in them, some safer cigarettes.

Q. How did you come to feel that these were safer cigarettes, something that Rosalie told you or something that --

A. No, they were generally known. Well, my husband would bum from her and he'd say they didn't taste like tobacco, that's the main thing.

Q. Other than changing brands and other than moving from a nonfilter cigarette to a filter cigarette, did you ever observe any other changes that made an impression on you in Rosalie's smoking practices?

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A. No.

Q. Did Rosalie, if you recall, ever express to you why she smoked?

A. No.

Q. Do you have any recollection of Rosalie ever giving or making any statements about the price or the cost of cigarettes?

A. No.

Q. Do you have any recollection of her ever making any comments or statements about smelly ashtrays or fouling up the air in a room?

A. No.

Q. Do you have any recollection of John Haight ever telling you why he quit smoking?

A. No.

Q. Is it fair for me to understand that when the Phillips and the Haights got together that smoking and smoking practices were not a subject of your social conversation?

A. No. Yes, that's fair to say. It was just taken for granted you smoked and we didn't -- we weren't conscious of all the ill effects. It was just an enjoyable thing to do, I guess.

Q. Were you ever acquainted with John Haight's mother?

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A. Yes.

Q. You knew her for a period of time prior to her death?

A. Yes.

Q. And did you become acquainted with her after you came back to Charleston in 1949?

A. Yes.

Q. And I believe John's mother passed away about 1957. Did you see her on a regular basis in the 1949/1957 time frame?

A. Yes.

Q. I believe as a matter of fact she lived in the same home with John?

A. Right, John lived in her home.

Q. Did John's mother to your recollection smoke?

A. I don't think so but I am not sure. It wasn't an outstanding thing for people to smoke.

Q. I understand. In connection with John's mother, did you ever hear of the cause of her death?

A. Yes.

Q. Do you remember what that was?

A. I may be wrong but I thought it was cirrhosis of the liver, yet we think of that as

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pertaining to someone who drinks alcohol and she certainly was no alcoholic. She was a very mild social drinker.

Q. But to your knowledge her death was not associated with smoking in any regard? To your knowledge.

A. To my knowledge, no. She became ill in Port Said and was flown home and died soon thereafter.

Q. You of course were acquainted with Rosalie's sister Caroline. Did you ever become aware that Caroline also had cancer?

A. Yes.

Q. Did you ever hear what may have been the cause of Caroline's cancer?

A. No.

Q. Did you ever hear that Caroline's cancer was in any way associated with smoking?

A. No.

Q. Mrs. Phillips, prior to 1983 do you know of any efforts that Rosalie made to quit smoking?

MR. FARRELL: Objection. It has been asked and answered.

Q. You can answer it.

A. Do I know of any efforts she made to quit

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smoking?

Q. Yes, Ma'am, prior to 1983.

A. No, I don't know.

Q. When you were teaching at Charleston High up through the 1950s and until 1964 were you aware of any health courses being taught at the high school that some of the content of which would have dealt with health hazards that were associated with smoking?

A. No, no more than those that had been taught for the previous 50 years in a health class, briefly mentioned. You know, there were no anti-smoking courses, no courses for any -- no sex education courses, no anti-smoking courses, no anti-drug courses, no -- that's the days when we had a different kind of curriculum.

Q. Sounds like a hell of a lot more fun.

A. It was.

Q. After the Surgeon General's Report to your knowledge did the content of the health courses in the high schools change?

A. I don't know.

Q. Did you ever discuss with Rosalie her illness?

A. Oh, yes.

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Q. Did you ever discuss with her what she may have considered the causes of her illness?
A. Smoking.
Q. She expressed that she felt her cancer was caused by smoking?
A. Right.
Q. And can you give me any detail about these conversations, how many there were, where they occurred.
A. Well, every time we met.
Q. Do you know, Mrs. Phillips, whether she had reached that conclusion herself or was she telling you something that her doctors had told her?
A. I really can't say.
Q. Do you have any recollection of her saying to you my doctors have told me that smoking has caused my lung cancer?
A. Not a conversation exactly like that. She apparently felt very strongly that it had or she wouldn't have put so much pressure on my husband to quit smoking. He quit smoking cigarettes and smokes a pipe but that's --
Q. Specifically you don't recollect her saying that my doctors have told me this?

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A. No.

Q. Mrs. Phillips, did you ever discuss this lawsuit with Mrs. Haight prior to her death?

A. Yes.

Q. And do you remember when you had that discussion?

A. Before you and Carl came down to Florida. I called her when you were going to come over to the house and I -- you know, Rosalie was my friend and I don't -- didn't want to do something without talking with her first so I called her and we discussed it, this case, and she said -- told me to just answer your questions and not to be concerned about it, that she had done the same thing but --

Q. Was that the first time that you talked to her about the lawsuit --

A. I had heard about it, I didn't discuss it with Rosalie and I don't understand it yet. I really don't know what it's all about.

Q. Have you ever discussed the lawsuit with John?

A. Only to the -- no, not really. Only to the extent that he and I thought several other people were the plaintiffs in a lawsuit versus the

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tobacco companies and others and I think -- I asked why and I made several guesses and the answer was perhaps -- I think it was with you, Carl, perhaps all of them. You know, maybe it was to advertise the fact that cigarettes are harmful, that people do die and to note -- to make this more definite to the public or whether it was for -- I don't know what it' for.

Q. You get the impression that the lawsuit may have been sort of a cause that John has?

A. I wondered about that. However he started it, I think -- when did he start it?

Q. I believe in 1984.

A. Well, in 1984 Rosalie -- it was evident that her cancer was terminal, wasn't it?

Q. I am not certain.

A. So it certainly couldn't have been to help her any at that point. I don't know why he did it.

Q. Over the years of your acquaintance and relationship with John and Rosalie, did you ever observe any situations that we would describe as stress or strain between the two of them?

A. No.

Q. Did you ever hear Rosalie complain

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about John or any of his habits?
A. No.
Q. Do you have any recollection of what brands of cigarettes Rosalie smoked?
A. No, I really don't.
Q. Let's take about a five-minute recess here.
(Short recess.)
Q. Mrs. Phillips, is it your impression that this is John's lawsuit as opposed to Rosalie's?
A. I don't know. I guess it would have to be now. I didn't get that impression when she was living.
Q. And what impression did you get when she was living?
A. I don't know.
Q. Mrs. Phillips, I have no further questions of you. I thank you for your time and attention and your candor in answering my questions to the best of your knowledge and recollection. We are adjourned.
A. Thank you.
Q. Mrs. Phillips, under the rules of civil procedure you have a right to read and sign

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your deposition before it is filed as a court document in this case. You may also waive that right. The choice is yours. If you read it and sign it that's another thing that would be done before it becomes a document. This is a very, very competent court reporter who has accurately transcribed our conversation here today but the right is yours, you may either read and sign the deposition or you may waive that right to. It does not matter to me or my colleagues in this room which one you choose but you have to let the court reporter know.

A. I would like to read it and sign it but it would take a lot of time. It would have to be typed.

Q. It will be typed in any event.

A. Would you send it to me?

Q. Yes. You give her the address and you have the opportunity to read it, sign it before it becomes a part of the court record.

A. I would also like -- could I have a copy of that?

Q. Of what?

A. Caption.

Q. Surely. Absolutely.

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A. It's just a list of the people in here I think. This is a real experience for me.

Q. You most certainly --

MR. FARRELL: Your deposition will have a copy of the people who are here today.

Q. It will be right on the face of it.

(Witness excused.)

(Deposition concluded.)

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JURAT

I, MARGUERITE M. PHILLIPS, do hereby certify that I have read the foregoing transcript of my testimony taken on, August 26, 1986, and have signed it subject to the following changes:

PAGE	LINE	CORRECTION

_____ _____

DATE

Sworn and subscribed to before me this

day of

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C E R T I F I C A T E

I, ROSEMARY MARINO, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, do hereby certify that prior to the commencement of the examination the witness and/or witnesses were sworn by me to testify the truth, the whole truth and nothing but the truth.

I do further certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I do further certify that I am neither of counsel nor attorney for any party in this action and that I am not interested in the event nor outcome of this litigation.

Rosemary Marino

Notary Public of the State of New Jersey
Certificate Number XI00875

Dated: 9/11/86

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